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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,345	09/15/2003	Michael Adendorff	25148-11A	1574

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EXAMINER	
PARKER, BRANDI P	

ART UNIT	PAPER NUMBER
3623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/663,345	ADENDORFF ET AL.	
	Examiner	Art Unit	
	BRANDI P. PARKER	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,4,7-9,14-16,20,22,24,25,27,29,30,33-35,40,45,47,49,50,52 and 55* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-4,7-9,14-16, 20,22,24-25, 27,29-30,33-35,40,45,47,49-50,52,and 55* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/15/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Acknowledgements

1. The following is a Final Office action in response to communications filed on June 30, 2008. Claims 1, 3-4, 7-9, 14-16, 20, 22, 24-25, 27, 40, 45, 47, 49 and 52 have been amended. Claim 55 has been added.

Response to Applicant's Remarks

2. Applicant's amendment to claim 3-4, 7-9, 15-16, 20 and 24-25, filed on June 30, 2008, has been fully considered and is persuasive. The rejection of claims 3-4, 7-9, 15-16, 20 and 24-25 under 35 USC § 112 has been withdrawn.

3. Applicant's arguments filed on June 30, 2008 with respect to the rejection of the claims under 35 USC § 103 have been fully considered, however, they are not persuasive.

4. In response to Applicant's argument that the deviation measured in Sands does not provide information as to how the KPI is changing, Examiner respectfully disagrees. Sands teaches measuring the deviation between the target value and the actual value (page/line 4/2-6). Whether or not the KPI is changing can be determined upon subsequent measurements of the deviation over a specified period of time, where the

subjective determination of whether the KPI is getting better or worse can be determined. Therefore, Thompson in view of Sands does teach and suggest this limitation in claim 1.

5. In response to Applicant's argument that Sands does not teach or suggest tracking the deviation for a time period as to identify how the KPI is changing, Examiner respectfully disagrees. Sands teaches where the deviation is measured and can be displayed with changes indicated with time sequences against a time base (page/line 14/7-12). Therefore, Thompson in view of Sands does teach and suggest this limitation.

6. In response to Applicant's argument that Sands does not teach or suggest any monitoring or analysis of changes in the performance that actually happened, Examiner respectfully disagrees. Sands teaches measuring a target value and an actual value, as well as storing the actual value, not just in reference to a simulated value (page/line 4/2-6). Therefore, Thompson in view of Sands does teach and suggest this limitation.

7. Applicant's arguments with respect to claims 14, 22, 47 and 55, and depending claims 16, 24-25, and 49-50 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-4, 7-9, 20, 27, 29-30, 33-35, 45, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (US 6668253) in view of Sands (WO 01/88769).

1. With respect to **claims 1, 20, 27, 29, 45 and 52**, Thompson teaches a performance monitoring system comprising:

a. a staging area receiving data from one or more data sources (column/line 2/5-17);

b. a KPI store storing performance information relating to Key Performance Indicators (KPIs) (column/line 7/20-23);

c. a loader transforming the received data into the performance information relating to the KPIs (column/line 2/10-20),

d. an information presentation unit presenting the performance information to a user, wherein the information presentation unit has a front-end interface having a data guided monitoring function that receives a user input and presents relevant performance information in a selected order based on the user input to

allow the user to monitor and analyze the performance information (column/line 9/1-31).

Thompson does not teach calculating scores and loading the scores into the KPI store. However, Sands teaches

e. calculating scores based on the received data and the performance information stored in the KPI store to indicate changes in the KPIs such that the scores indicate if associated KPIs are getting better or worse or unchanged and loading the performance information including the scores into the KPI store (page/line 3/28-4/23).

It would have been obvious to one of ordinary skill in the art to include the business system of Thompson with the ability to calculating scores and loading the scores into the KPI store as taught by Sands since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

2. As to **claim 3**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1. Sands further teaches the staging area is capable of receiving an actual value for a KPI (page/line 4/5-6); the KPI store is capable of storing

a history of the actual value for the KPI (page/line 1/12-17); the loader has a function that calculates a score for the KPI based on the actual value and the history to indicate if the KPI is getting better or worse or unchanged (page/line 8/16-30).

3. Regarding **claims 4 and 30**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1. Sands further teaches the staging area is capable of receiving a target value and an actual value for a KPI (page/line 1/12-16); the loader has a function that calculates a score for the KPI based on the actual value and the target value or a prorated target value to indicate if the KPI is good, bad or neutral compared to the target value (page/line 10/17-27), and calculates another score by comparing the calculated score and a score calculated and stored in the KPI store at a previous loading, so that the another score indicates if the KPI is getting better or worse or unchanged (Id).

4. With respect to **claims 7 and 33**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1. Thompson further teaches the information presentation unit has a function that presents a higher level of the performance information in a form capable of breaking down into a lower lever (column/line 6/65-7/11).

5. As to **claims 8 and 34**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1. Thompson further teaches wherein the

staging area is capable of providing to the loader data that has changed from a last loading (column/line 4/64-5/14).

6. Regarding **claims 9 and 35**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1. Thompson further teaches the staging area contains value information for the KPIs and time information relating to one or more time periods to which the value information is applied where

f. the KPI store is capable of storing the value information in association with the time information in a relational cube having the time and indicator dimensions, actual values, target values and score values for the KPIs, and/or business metadata as a network of content of the metadata (figure 23, column/line 32/39-49).

Thompson is modified by Sands to teach the loader with a function to determine which KPI is affected by a change in the value information (page/line 10/17-27). It would have been obvious to one of ordinary skill in the art to include the business system of Thompson with the ability to have a loader with a function to determine which KPI is affected by a change in the value information as taught by Sands since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 14-16, 22, 24-25, 40, 47, 49-50 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (US 6668253) and Sands (WO 01/88769) in view of Porkorny et al (US 2003/0150908).

7. With respect to **claim 14 and 55**, Thompson in view of Sands teaches the performance monitoring system as claimed in claim 1 and an application server accessing and managing the performance information stored in the KPI store (column/line 34/65-35/9). Thompson in view of Sands does not directly teach allowing annotations to the performance information. However, Pokorny teaches the information presentation unit comprises: wherein the front-end interface has a function that allows a user to add to or modify annotation in the performance information, and the KPI store is capable of storing the annotation (paragraph 0056 and 0096).

It would have been obvious to one of ordinary skill in the art to include the business system of Thompson and Sands with the ability to allowing annotations to the performance information as taught by Porkorny since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

8. As to **claims 15 and 40**, Thompson and Sands in view of Porkorney teaches the performance monitoring system as claimed in claim 14. Thompson further teaches the data guided monitoring function is capable of presenting the performance information of a selected KPI together with related KPIs which are in a cause and effect relation with the selected KPI. and/or presenting the performance, information of related KPIs in a diagram to navigate the user through the related KPIs (column/line 9/1-31).

9. Regarding **claims 16, 22, 24-25, 47, and 49-50**, Thompson and Sands in view of Porkorney teaches the performance monitoring system as claimed in claim 15. Thompson further teaches the data guided monitoring function has a function that presents the performance information for relevant KPI's sorted based on a selected type of scores, and/or presents the performance information for relevant KPI's filtered and sorted based on the scores of the KPI's (column/line 10/1-6).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI P. PARKER whose telephone number is (571) 272-9796. The examiner can normally be reached on Mon-Thurs. 8-5pm.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRANDI P PARKER/
Examiner, Art Unit 3623

/Bradley B Bayat/

Supervisory Patent Examiner, Art Unit 3623